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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

LUIS MIGUEL RUANO-NUNEZ,

Defendant.

Case No.: CR 20-0050 WHA

**DEFENDANT'S SENTENCING
MEMORANDUM**

Court: Hon. William Alsup

Date: June 30, 2020

Time: 3:00 p.m.

INTRODUCTION

Defendant Luis Miguel Ruano-Nunez, a 25 year-old U.S. citizen raised in Mexico until age 18 who has no prior arrests or convictions of any kind, made a huge error in judgment in getting involved with a large quantity of methamphetamine even though had a good full-time job. Mr. Ruano has demonstrated extraordinary acceptance of responsibility for this offense by not seeking pretrial release and instead indicating his early intention to plead guilty pursuant to an agreement with the government before the COVID-19 pandemic delayed all court proceedings. Because of the pandemic, the time that Mr. Ruano has already served in custody, and will continue to serve, will be harder than normal, even though he is young and without specific health-related risk factors, due to the suspension of programming that would have made his time more productive and also enabled him

1 to earn credits toward reducing his sentence. For these reasons, Mr. Ruano respectfully submits that
 2 that Court should grant a downward variance to a sentence of 36 months imprisonment.

3 BACKGROUND

4 Mr. Ruano was born in Santa Ana, California, to parents from rural Jalisco, Mexico. PSR ¶ 31.
 5 Mr. Ruano's father was a seasonal worker, who regularly came to work in the United States until his
 6 retirement. *Id.* ¶ 32. A few months after Mr. Ruano was born, he returned with his parents to Jalisco,
 7 where he grew up. *Id.* Mr. Ruano attended school there until sixth grade and then went to work in
 8 the fields to help his family financially. *Id.* ¶ 41. At age 18, Mr. Ruano legally returned to the United
 9 States to seek better employment opportunities. *Id.* ¶ 33. From 2017 to 2018, Mr. Ruano worked as
 10 a mechanic at a Tire Shop in Palm Springs, California. *Id.* ¶ 43. Then, from 2018 until his arrest on
 11 the instant offense in 2020, Mr. Ruano was employed at Perez Nursery and Landscaping in
 12 Brentwood, California, working full-time and earning \$2,000 per monthly. *Id.* ¶ 42.

13 Unfortunately, after returning to the United States, Mr. Ruano also got involved first with
 14 alcohol and then with illegal drugs. *Id.* ¶ 40. Mr. Ruano was already sending much of his earnings
 15 home to support his family, and this drug addiction added to the pressure to earn more and also
 16 caused a serious lapse in judgment, resulting in the instant offense of possessing methamphetamine
 17 with the intent to distribute. *See id.* Mr. Ruano had never been arrested or convicted of any offense
 18 before, and he has never been violent or in possession of a weapon. *See id.* ¶¶ 24-29.

19 Following his initial appearance in magistrate court, Mr. Ruano waived the right to seek pretrial
 20 release. Dkt. #3 (Feb. 14, 2020). Soon thereafter, Mr. Ruano was scheduled to plead guilty pursuant
 21 to an agreement with the government when the COVID-19 pandemic delayed all court proceedings.
 22 Dkt. ##6-10. Change of plea and sentencing for Mr. Ruano pursuant to a "pre-plea" presentence
 23 report are now set for June 30, 2020. Dkt. ##9-10.

24 ARGUMENT

25 The U.S. Probation Officer correctly calculates the advisory range under the U.S. Sentencing
 26 Guidelines to be 87 to 108 months imprisonment. PSR ¶ 48 & n.4.¹ Sensibly, the U.S. Probation
 27 _____

28 ¹ Because Mr. Ruano has not yet pleaded guilty, the PSR alternatively calculates the advisory
 guideline range both with and without credit for acceptances of responsibility. *See* PSR ¶ 48 & n.4.

1 Officer recommends under the factors of 18 U.S.C. § 3553(a) a downward variance below the low
2 end of the advisory guideline range for the following reasons:

3 Although the instant offense is very serious, the defendant has minimal
4 education and no prior criminal history. He was practically raised by his
5 mother as his father was often absent. Therefore, after a careful
6 consideration of all the factors enumerated in 18 U.S.C. § 3553(a), a
7 downward variance is recommended to achieve the statutory purposes of
8 sentencing. A sentence of 72 months of imprisonment is reasonable and
9 not greater than necessary.

10 PSR Sentencing Recommendation at 2.

11 Mr. Ruano appreciates the recommendation and agrees that a downward variance under the
12 factors of § 3553(a) is warranted here. However, it is respectfully submitted that, together with
13 additional reasons not considered by the U.S. Probation Officer, a greater downward variance to a
14 sentence of 36 months imprisonment is warranted. Specifically, as noted above, Mr. Ruano has
15 already demonstrated extraordinary acceptance of responsibility by waiving the right to seek pretrial
16 release and almost immediately thereafter setting the matter for change of plea pursuant to an
17 agreement with the government before the onset of the COVID-19 pandemic delayed all court
18 proceedings. Because of the pandemic, the time that Mr. Ruano has already served in custody, and
19 will continue to serve, will be harder than normal, even though he is young and without specific
20 health-related risk factors, due to the suspension of programming that would have made his time
21 more productive and also enabled him to earn credits toward reducing his sentence. Of course, like
22 everyone in custody, Mr. Ruano is also at greater risk of a potentially fatal COVID-19 infection
23 owing to the impossibility of full social distancing in prison. Once Mr. Ruano is released, his
24 prospects for complete rehabilitation are particularly good, due to his U.S. citizenship and his solid
25 history of lawful full-time employment. With the support of the U.S. Probation Office while on
26 supervised release, including drug treatment, Mr. Ruano is confident that he will succeed and not
27 reoffend. Instead, this incident will be shown to have been very serious but aberrant behavior.

28 Viewing these additional factors in combination with the other factors under § 3553(a)
identified by the U.S. Probation Officer – that Mr. Ruano “has never committed a violent act,” that he

It is undisputed that the range of 87 to 108 months is applicable here because Mr. Ruano will be entering a guilty plea prior to proceeding to sentencing. *See id.*

1 “has never been arrested before and the instant offense is his first encounter with the law,” his
2 “minimal education,” and the absence of his father, PSR Sentencing Recommendation at 2 – Mr.
3 Ruano respectfully submits that that Court should grant a downward variance to a sentence of 36
4 months imprisonment, to be followed by three years supervised release.

5 **CONCLUSION**

6 For the foregoing reasons, the Court should sentence Mr. Ruano to 36 months imprisonment to
7 be followed by three years supervised release.

8
9 Dated: June 23, 2020

Respectfully submitted,

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Northern District of California

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